

REQUEST FOR RECONSIDERATION
SERIAL NO. 10/539,413

ATTORNEY DOCKET 36-1909
ART UNIT 2618

REMARKS/ARGUMENTS

Reconsideration of this application is respectfully requested.

The rejection of claims 1-5 and 7-9 under 35 USC §103 as allegedly being made "obvious" based on newly cited Wheeler '248 in view of newly cited Clubb '791 is respectfully traversed.

Initially, it is noted that the Examiner's comments are in obvious error in places (e.g., referencing non-existent paragraph numbers in the cited references). The undersigned attorney telephoned the Examiner for clarification and it was suggested that the erroneous paragraph numbers merely had transposed digits. However, as will be explained in more detail below, it still appears that the Examiner's assertions regarding the contents of the cited references are clearly erroneous.

None of the cited documents is directed to a method of identifying a predetermined number of computers within a computer network that satisfies one or more specified conditions. None of them even describes sending any sort of message having a token value indicative of the number of devices to be identified by the message.

Wheeler seems to be completely irrelevant. None of the cited Wheeler paragraphs has any clear teaching related to the presently claimed invention (whichever way one reorders the paragraph number digits). Clubb is concerned with sending messages over a network.

Of course, Applicants do not claim to have invented a method of merely sending a message between devices over a computer network. It is not clear if the Examiner has merely

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this in mind because there is no understandable explanation of why the documents have been cited.

If, for the sake of argument, one assumes that this is what the Examiner is asserting, it is clear from a basic analysis that the simple act of sending a message by specifying a device's address does not anticipate or make obvious the present claims. In particular, even if one tried to imagine a case in which only a single computer is to be identified, the presently claimed invention still requires sending a token value and one or more specified conditions within a request message. When a conventional message is sent, the only significant piece of data is the destination address. Although one could possibly argue (improperly) that this might represent a specified condition, one clearly could not even argue that it was a token value – and certainly not at the same time as being a specified condition.

When a message is sent normally through a computer network, each device which receives a message checks to see if it is the recipient device and, if it is, then the message is passed up to a higher layer of message processing within the device. There is no step of decrementing a token value and there is no subsequent determination to see if the decremented token value indicates that a further computer device (or devices) is (or are) to be located, or of forwarding one or more daughter messages on to a subsequent computer or computers, etc.

Since, in Applicants' method, it will normally be the case that more than one device needs to be identified, this further checking step is essential and is simply not done in conventional message sending systems. More fundamentally, there is no way in which a destination device can be said to be identified by the process of merely receiving a message. By definition,

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the sending device already knows its identity inasmuch as it knows its address and, therefore, there is no sense in which the device is being identified as required by the present invention. There is no corresponding step of identifying itself to the request originating computer/device.

In brief, the Examiner has merely quoted (or closely paraphrased) Applicants' claim language and then inserted parenthetical references to completely irrelevant or, in some cases, even non-existent paragraphs of the cited references.

For example, the Examiner begins by quoting the preamble and the first two paragraphs of claim 1, followed by parenthetical references to Wheeler at paragraph 4, lines 2-6, and paragraph 222, lines 2-7. For convenience, the entirety of these references to portions of Wheeler are quoted below:

[0004] Over recent years, digital signatures also have become an important part of e-commerce. The origination of a digital signature generally comprises:

- (1) The calculation of a message digest – such as a hash value; and
- (2) The subsequent encryption of the message digest. The message digest is encrypted by an electronic device generally using a private key of public-private key pair used in asymmetric cryptography. ... [Lines 1-8.]

[0222] The personal item 2650 is associated, among other accounts, with a medical practice management account maintained by an account authority represented by a medical practice management service 2612. The computer 2660 has installed thereon suitable database management and access software to enable it to interact, for example, over an internal or external network 2608 (in this case, it is an internal network) with information contained within an account database maintained by server 2612. [Lines 1-9.]

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As will be apparent, the cited passages in Wheeler are essentially irrelevant to the quoted claim language of claim 1. Applicants' claim is not dealing with digital signatures, database management or the like.

The Examiner then goes on to quote additional language from claim 1 and cites to non-existent paragraph numbers 393 and 394 in Wheeler. By telephone, the Examiner indicates that this should have referred to paragraph numbers 339 and 349, respectively. However, paragraph 339 deals with a central key authority 7190, etc., and paragraph 349 concerns the manufacturing history of a device so as to generate a digital signature, etc. Once again, neither the erroneously cited non-existent paragraphs, nor the "corrected" paragraph numbers, have anything to do with the quoted passages from Applicants' claim 1.

The Examiner then introduces further discussion with "However Clubb et al teach but fail to teach forwarding of one or more daughter messages..." The grammar makes this difficult to understand the intended meaning – and it seems to be consistent with a possible intention to have earlier cited to Clubb rather than to Wheeler. However, the cited paragraph numbers found in Clubb are also irrelevant to the Applicants' claimed invention. Furthermore, the cited paragraphs of Clubb (9, 22, 23, 25, 26, 119, 124 and 165) are also irrelevant. For example, none of these paragraphs even so much as mentions use of a token value indicative of a number of computer devices to be located by the message, etc.

The Examiner also alleges that it would have been "obvious" to modify Wheeler so as to include features of Clubb "in order to provide formatted for the selected client device, thereby improve more security for customer." Once again, the grammar is such that it is difficult to

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understand the intended meaning. However, it is noted that these two references are disparate teachings classified in entirely different areas of the classified patent art and dealing with entirely different problems and solutions – as compared to each other, let alone when compared to a completely different problem and solution described and claimed by the Applicants here at issue.

The Examiner's continued discussion of specific claims with respect to Wheeler and/or Clubb has similar deficiencies throughout.

The rejection of claims 10 and 11 under 35 USC §102 as allegedly anticipated by Clubb '791 is also respectfully traversed.

Some of the fundamental deficiencies of Clubb have already been noted above. For example, Clubb does not teach the use of a token value indicative of the number of other computers within the network to be identified by a message, etc. The paragraphs 502, 564, 612 and 620 cited by the Examiner as allegedly containing this and other teachings does not, in fact, offer any support for the allegations being made. Instead, these paragraphs deal with various coding/decoding encryption/decryption techniques, the mere use of acknowledgment control messages, process applications specific messages (e.g., dealing with a news service providing client devices with news stories, etc.). None of them in any way teaches or suggests employing a token value indicative of the number of other computers within the network to be identified by the message, etc.

Accordingly, for this reason alone, it is impossible, as a matter of law, for Clubb to anticipate either claim 10 or 11, and it is, therefore, unnecessary to discuss additional defi-

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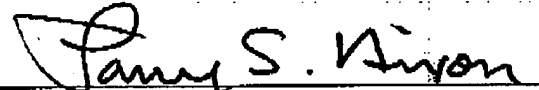
encies of this reference at this time. Suffice it to note that, as a matter of law, it is impossible for
a reference to anticipate any claim unless it teaches each and every feature of that claim.

Accordingly, this entire application is now believed to be in allowable condition, and a
formal notice to that effect is respectfully solicited.

Respectfully submitted,

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